

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

EVA COOLEY

PLAINTIFF

v.

CIVIL ACTION NO. 2:20-cv-196-TBM-MTP

**LAMAR COUNTY SHERIFF
DEPARTMENT, *et al.***

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on submission of the Report and Recommendation [8] entered by United States Magistrate Judge Michael T. Parker on April 27, 2021. After considering the record and applicable law, Judge Parker recommends dismissal based on Plaintiff's failure to pay the filing fee and to comply with that the Court's orders.

On May 10, 2021, Plaintiff filed a Response [9] to the Report and Recommendation [8], seeking "15-30 days to pay the filing fee of this case." [9] at 1. Plaintiff's Response [9] to the Report and Recommendation was docketed as a Motion for Extension of Time to Pay Filing Fee in response to [8] Report and Recommendations. Since Plaintiff's Response was filed by May 11, 2021, the same date the objections to the Report and Recommendation were due, the Court construes the Plaintiff's Response [9] as an objection to the Report and Recommendation.

It is well-settled that "parties filing objections must specifically identify those findings objected to." *Johansson v. King*, No. 5:14-cv-96-DCB, 2015 WL 5089782, *2 (S.D. Miss. Aug. 27, 2015). The Court must review any objected-to portions of a report and recommendation *de novo*. Such a review means that the Court will consider the record that has been developed before the Magistrate Judge and make its own determination on the basis of that record. *United States v.*

Raddatz, 447 U.S. 667, 675, 100 S. Ct. 2406, 65 L. Ed. 2d 424 (1980). The Court need not consider frivolous, conclusive, or general objections. *Johansson v. King*, No. 5:14-cv-96-DCB, 2015 WL 5089782, *2 (S.D. Miss. Aug. 27, 2015) (citing *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987)). Additionally, “[m]erely reurging the allegations in the petition or attacking the underlying conviction is insufficient to receive *de novo* review[.]” *Id.* When a *de novo* review is not warranted, the Court need only review the findings and recommendation and determine whether they are either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

The Court notes that Plaintiff has had multiple opportunities in which to pay her filing fee. Additionally, Plaintiff has had an additional six months since the filing of her Response [9] and the entry of this order during which she could have paid her filing fee. Since she still has not paid her fee and has had more than the 15-30 days that she requested in which to pay it, the Court finds that the Plaintiff's Response [9], which the Court construes as an objection to the Report and Recommendation, shall be denied as moot. The Court has effectively given her the time she requested plus an additional six months to pay her filing fee.

Having considered Judge Parker's Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that Report and Recommendation [8] entered by United States Magistrate Judge Michael T. Parker on April 27, 2021 is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff's Response [9], which the Court construes as an objection is DENIED as moot.

IT IS FURTHER ORDERED AND ADJUDGED that this matter is DISMISSED WITHOUT PREJUDICE.

THIS, the 27th day of December, 2021.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE